S. 1438

To provide for immigration reform.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2005

Mr. CORNYN (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for immigration reform.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Comprehensive Enforcement and Immigration Reform Act of 2005”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BORDER ENFORCEMENT AND VISA SECURITY

Sec. 101. Necessary assets for controlling United States borders.
Sec. 102. Expedited removal between ports of entry.
Sec. 103. Document fraud detection.
Sec. 104. Improved document integrity.
Sec. 105. Cancellation of visas.
Sec. 106. Biometric entry-exit system.
Sec. 107. Release of aliens from noncontiguous countries.
Sec. 108. Reducing illegal immigration and alien smuggling on tribal lands.

TITLE II—INTERIOR ENFORCEMENT

Subtitle A—General Enforcement

Sec. 201. Detention space and removal capacity.
Sec. 202. Detention of dangerous aliens.
Sec. 203. Increased criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.
Sec. 204. Penalty for countries that do not accept return of nationals.
Sec. 205. No judicial review of visa revocation.
Sec. 206. Alternatives to detention.
Sec. 207. Removal of aliens.
Sec. 208. Additional immigration personnel.
Sec. 209. Completion of background and security checks.
Sec. 210. Denial of benefits to terrorists and criminals.
Sec. 211. Reinstatement of previous removal orders.
Sec. 212. Automated alien records.

Subtitle B—State and Local Law Enforcement

Sec. 221. Immigration law enforcement by States and political subdivisions of States.
Sec. 222. State and local law enforcement provision of information regarding aliens.
Sec. 223. Listing of immigration violators in the National Crime Information Center database.
Sec. 224. Increase of Federal detention space and the utilization of facilities identified for closures as a result of the Defense Base Closure Realignment Act of 1990.
Sec. 225. Federal custody of illegal aliens apprehended by State or local law enforcement.
Sec. 226. Immunity.
Sec. 227. State criminal alien assistance program.
Sec. 228. Construction.
Sec. 229. State Defined.

TITLE III—WORKSITE ENFORCEMENT AND EMPLOYMENT VERIFICATION SYSTEM

Subtitle A—Increased Enforcement Resources and Penalties

Sec. 301. Additional worksite enforcement and fraud detection agents.
Sec. 302. Penalties for unauthorized employment and false claims of citizenship.
Sec. 303. Penalties for misusing social security numbers or filing false information with Social Security Administration.

Subtitle B—Increased Document Integrity

Sec. 311. Social Security cards.
Sec. 312. Birth certificates.
Subtitle C—Mandatory Electronic Employment Verification of All Workers in the United States

Sec. 321. Employment eligibility verification program.

Subtitle D—Reduction in Employer Burdens

Sec. 331. Reduction in documents that establish identity and employment authorization.
Sec. 332. Good faith compliance.

TITLE IV—REQUIREMENTS FOR PARTICIPATING COUNTRIES

Sec. 401. Requirements for participating countries.

TITLE V—NONIMMIGRANT TEMPORARY WORKER PROGRAM

Sec. 501. Nonimmigrant temporary worker category.
Sec. 502. Temporary worker program.
Sec. 503. Statutory construction.
Sec. 504. Authorization of appropriations.

TITLE VI—MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS

Sec. 601. Mandatory departure and reentry in legal status.
Sec. 602. Statutory construction.
Sec. 603. Authorization of appropriations.

TITLE VII—ALIEN EMPLOYMENT MANAGEMENT SYSTEM

Sec. 701. Alien employment management system.
Sec. 702. Labor investigations.

TITLE VIII—PROTECTION AGAINST IMMIGRATION FRAUD

Sec. 801. Grants to support public education and training.

TITLE IX—CIRCULAR MIGRATION

Sec. 901. Investment accounts.

TITLE X—BACKLOG REDUCTION

Sec. 1001. Employment based immigrants.
Sec. 1002. Country limits.
Sec. 1003. Allocation of immigrant visas.

TITLE XI—TEMPORARY AGRICULTURAL WORKERS

Sec. 1101. Sense of the Senate on temporary agricultural workers.
TITLE I—BORDER ENFORCEMENT AND VISA SECURITY

SEC. 101. NECESSARY ASSETS FOR CONTROLLING UNITED STATES BORDERS.

(a) Personnel.—

(1) Customs and border protection officers.—In each of the fiscal years 2006 through 2010, the Secretary of Homeland Security shall increase by not less than 250 the number of positions for full-time active duty Customs and Border Protection officers.

(2) Authorization of Appropriations.—

(A) Customs and border protection officers.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010 to carry out paragraph (1).

(B) Border patrol agents.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010 to carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734).

(C) Transportation of aliens.—There are authorized to be appropriated $25,000,000
for each of fiscal years 2006 through 2010 for
the transportation of aliens.

(b) TECHNOLOGICAL ASSETS.—

(1) ACQUISITION.—The Secretary of Homeland
Security shall procure unmanned aerial vehicles,
cameras, poles, sensors, and other technologies nec-
essary to achieve operational control of the borders
of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$500,000,000 for each of fiscal years 2006 through
2010 to carry out paragraph (1).

(c) INFRASTRUCTURE.—

(1) CONSTRUCTION OF BORDER CONTROL FA-
cILITIES.—The Secretary of Homeland Security
shall construct all-weather roads and shall acquire
vehicle barriers and necessary facilities to support
its mission of achieving operational control of the
borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated
$500,000,000 for each of fiscal years 2006 through
2010 to carry out paragraph (1).

(d) BORDER PATROL CHECKPOINTS.—Temporary or
permanent checkpoints may be maintained on roadways
in border patrol sectors close to the border between the
United States and Mexico.

SEC. 102. EXPEDITED REMOVAL BETWEEN PORTS OF
ENTRY.

(a) In General.—Section 235 of the Immigration
and Nationality Act (8 U.S.C. 1225) is amended—

(1) in subsection (b)(1)(A)(i), by striking “the
officer” the inserting “a supervisory officer” and

(2) in subsection (c), by adding at the end the

following:

“(4) Expansion.—The Secretary of Homeland
Security shall make the expedited removal proce-
dures under this subsection available in all border
patrol sectors on the southern border of the United
States as soon as operationally possible.

“(5) Training.—The Secretary of Homeland
Security shall provide employees of the Department
of Homeland Security with comprehensive training
of the procedures authorized under this subsection.”.

(b) Authorization of Appropriations.—There
are authorized to be appropriated $10,000,000 for each
of fiscal years 2006 through 2010 to carry out the amend-
ments made by this section.
SEC. 103. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary of Homeland Security shall provide all customs and border protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the Forensic Document Laboratory of the Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary of Homeland Security shall provide all customs and border protection officers with access to the Forensic Document Laboratory.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

SEC. 104. IMPROVED DOCUMENT INTEGRITY.

Section 303 of Public Law 107–173 (8 U.S.C. 1732) is amended—

(1) in the header, by striking “ENTRY AND EXIT DOCUMENTS” and inserting “TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS”;

(2) in subsection (b)(1)—

(A) by striking “Not later than October 26, 2004, the Attorney General” and inserting “The Secretary of Homeland Security”; and
(B) by striking “visas and” each place it appears and inserting “visas, evidence of status, and”;

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following:

“(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Department of Homeland Security, which may be used as evidence of immigrant, non-immigrant, parole, asylee, or refugee status, shall be machine-readable, tamper-resistant, and incorporate a biometric identifier to allow the Department of Homeland Security to electronically verify the identity and status of the alien.”.

SEC. 105. CANCELLATION OF VISAS.

Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1), by inserting “and any other nonimmigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and

(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in

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a consular office located in the country of the alien’s
nationality” and inserting “(other than a visa de-
scribed in paragraph (1)) issued in a consular office
located in the country of the alien’s nationality or
foreign residence”.

SEC. 106. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) GROUNDS OF INADMISSIBILITY.—Section 212 of
the Immigration and Nationality Act (8 U.S.C. 1182) is
amended—

(1) in subsection (a)(7), by adding at the end
the following:

“(C) WITHHOLDERS OF BIOMETRIC
DATA.—Any alien who fails to comply with a
lawful request for biometric data under section
215(c) or 235(d) is inadmissible.”; and

(2) in subsection (d), by inserting after para-
graph (1) the following:

“(2) The Secretary of Homeland Security shall deter-
mine whether a ground for inadmissibility exists with re-
spect to an alien described in subparagraph (C) subsection
(a)(7) and may waive the application of such subpara-
graph, for an individual alien or a class of aliens, at the
discretion of the Secretary.”.

(b) COLLECTION OF BIOMETRIC DATA FROM ALIENS
DEPARTING THE UNITED STATES.—Section 215 of the
Immigration and Nationality Act (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g); and

(2) by inserting after subsection (b) the following:

“(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.”.

(c) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) of the Immigration and Nationality Act (8 U.S.C. 1185(d)) is amended by adding at the end the following:

“(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

“(A) any applicant for admission or alien seeking to transit through the United States; or

“(B) any lawful permanent resident who is entering the United States, but is not regarded as seeking admission under section 101(a)(13)(C).”.
(d) Collection of Biometric Data From Alien Crewman.—Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) is amended by inserting “Immigration officers are authorized to collect biometric data from any alien crewman seeking permission to land temporarily in the United States.” after “this title.”.

(e) Implementation.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

“(3) Implementation.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the ‘Administrative Procedures Act’) or any other law relating to rulemaking, information collection, or publication in the Federal Register.”; and

(2) in subsection (l)—

(A) by striking “There are authorized” and inserting the following:

“(1) In general.—There are authorized”; and

(B) by adding at the end the following:
“(2) Implementation at all land border ports of entry.—There are authorized to be ap-
propriated such sums as may be necessary for each of fiscal years 2006 and 2007 to implement the automated biometric entry and exit data system at all land border ports of entry.”.

SEC. 107. RELEASE OF ALIENS FROM NONCONTIGUOUS COUNTRIES.

(a) Minimum bond.—Section 236(a)(2) of the Im-
migration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended—

(1) by striking “on”; 
(2) in subparagraph (A)—
(A) by inserting “except as provided under subparagraph (B), upon the giving of a”; and 
(B) by striking “or” at the end; 
(3) by redesignating subparagraph (B) as sub-
paragraph (C); and 
(4) by inserting after subparagraph (A) the fol-
lowing: 

“(B) if the alien is a national of a non-
contiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight
risk, as determined by the Secretary of Homeland Security, upon the giving of a bond of at least $5,000 with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security or the Attorney General; or”.

(b) REPORT.—Not later than 2 years after the effective date of this Act, the Secretary of Homeland Security shall submit a report to Congress on the number of aliens from noncontiguous countries who are apprehended between land border ports of entry.

SEC. 108. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;
(2) health care services;
(3) environmental restoration; and
(4) the preservation of cultural resources.
(c) **Report.—** Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

1. describes the level of access of Border Patrol agents on tribal lands;
2. describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;
3. contains a strategy for improving such access through cooperation with tribal authorities; and
4. identifies grants provided by the Department of Homeland Security for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) **Authorization of Appropriations.—** There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out this section.
TITLE II—INTERIOR
ENFORCEMENT
Subtitle A—General Enforcement

SEC. 201. DETENTION SPACE AND REMOVAL CAPACITY.

Section 5204 of the Intelligence Reform and Terrorism Protection Act of 2004 (118 Stat. 3734) is amended—

(1) in subsection (a), by striking “8,000” and inserting “10,000”; and

(2) by adding at the end the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010 to carry out subsection (a).”.

SEC. 202. DETENTION OF DANGEROUS ALIENS.

(a) REMOVAL OF TERRORIST ALIENS.—

(1) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended—

(A) in section 208(b)(2)(A), by amending clause (v) to read as follows:

“(v) the alien is described in section 212(a)(3)(B), 212(a)(3)(F), or 237(a)(4)(B) unless, in the case only of an
alien described in section 212(a)(3)(B)(i)(IV), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”;

(B) in section 240A(c), by amending paragraph (4) to read as follows:

“(4) An alien described in section 212(a)(3) or 237(a)(4).”;

(C) in section 240B(b)(1)(C), by striking “deportable under” and inserting “described in”;

(D) in section 241(b)(3)(B)—

(i) in clause (iii), by striking “or” at the end;

(ii) in clause (iv), by striking the period at the end and inserting “; or”;

(iii) by inserting after clause (iv) the following:

“(v) the alien is described in section 212(a)(3)(B), 212(a)(3)(F), or 237(a)(4)(B), unless, in the case only of an alien described in section
212(a)(3)(B)(i)(IV), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.”; and

(iv) by striking “For purposes of clause (iv)” and all that follows; and

(E) in section 249—

(i) by striking “inadmissible under section 212(a)(3)(E) or under section” and inserting “described in section 212(a)(3)(E) or”; and

(ii) in subsection (d), by striking “to citizenship and is not deportable under” and inserting “for citizenship and is not described in”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act and shall apply to—

(A) all aliens subject to removal, deportation, or exclusion at any time; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, depor-
(b) **Detention of Dangerous Aliens.**—

(1) **In General.**—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(B) in paragraph (2), by inserting “If a court orders a stay of removal of an alien who is subject to an order of removal that is administratively final, the Secretary of Homeland Security, in the exercise of the Secretary’s discretion, may detain the alien during the pendency of such stay of removal, before the beginning of the removal period, as provided in paragraph (1)(B)(ii).” after “detain the alien.”; and

(C) in paragraph (6), by striking “removal period and, if released,” and inserting “removal period, in the discretion of the Secretary, without any limitations other than those specified by the Secretary of Homeland Security by regulation, until the alien is removed. If an alien is released, the alien”.
(2) Effective date.—The amendments made by paragraph (1) shall take effect upon the date of enactment of this Act, and shall apply to cases in which the final administrative removal order was issued before, on, or after such date.

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING, DOCUMENT FRAUD, GANG VIOLENCE, AND DRUG TRAFFICKING.

(a) Alien Smuggling.—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking “10 years” and inserting “15 years”;

(B) in clause (ii), by striking “5 year” and inserting “10 years”; and

(C) in clause (iii), by striking “20 years” and inserting “40 years”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “one year, or both; or” and inserting “3 years, or both”;

(B) in subparagraph (B)—

(i) in clause (i), by adding at the end the following: “be fined under title 18,
United States Code, and imprisoned not
less than 5 years nor more than 25
years;”;

(ii) in clause (ii), by striking “or” at
the end and inserting the following: “be
fined under title 18, United States Code,
and imprisoned not less than 3 years not
more than 20 years; or”; and

(iii) in clause (iii), by adding at the
end the following: “be fined under title 18,
United States Code, and imprisoned not
more than 15 years; or”; and

(C) by striking the matter following clause
(iii) and inserting the following:
“(C) in the case of a third or subsequent
offense described in subparagraph (B) and for
any other violation, shall be fined under title
18, United States Code, and imprisoned not
less than 5 years nor more than 15 years.”;

(3) in paragraph (3)(A), by striking “5 years”
and inserting “10 years”; and

(4) in paragraph (4), by striking “10 years”
and inserting “20 years”.

(b) DOCUMENT FRAUD.—Section 1546 of title 18,
(1) in subsection (a)—

(A) by striking “not more than 25 years” and inserting “not less than 25 years”

(B) by inserting “and if the terrorism offense resulted in the death of any person, shall be punished by death or imprisoned for life,” after “section 2331 of this title)),”;

(C) by striking “20 years” and inserting “imprisoned not more than 40 years”;

(D) by striking “10 years” and inserting “imprisoned not more than 20 years”; and

(E) by striking “15 years” and inserting “imprisoned not more than 25 years”; and

(2) in subsection (b), by striking “5 years” and inserting “10 years”.

(e) Crimes of Violence.—

(1) In general.—Title 18, United States Code, is amended by inserting after chapter 51 the following:

“CHAPTER 52—ILLEGAL ALIENS

See. 1131. Enhanced penalties for certain crimes committed by illegal aliens.

“§ 1131. Enhanced penalties for certain crimes committed by illegal aliens

“(a) Any alien unlawfully present in the United States, who commits, or conspires or attempts to commit,
a crime of violence or a drug trafficking offense (as defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison.

“(b) If an alien who violates subsection (a) was previously ordered removed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime, the alien shall be sentenced to not less than 15 years in prison.

“(c) A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.”.

(2) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following:

“52. Illegal aliens ............................................................................. 1131”.

(d) Criminal Street Gangs.—

(1) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

“(F) Aliens who are members of criminal street gangs.—Any alien who is a
member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.”.

(2) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.”.

(3) TEMPORARY PROTECTED STATUS.—Section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(iii) the alien is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).”.
SEC. 204. PENALTY FOR COUNTRIES THAT DO NOT ACCEPT RETURN OF NATIONALS.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended—

(1) by striking “On being notified” and inserting the following:

“(1) IN GENERAL.—Upon notification”; and

(2) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(3) by adding at the end the following:

“(2) DENIAL OF ADMISSION.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may deny admission to any citizen, subject, national or resident of that country until the country accepts the alien that was ordered removed.”.

SEC. 205. NO JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking “, except in the context of a removal proceeding” and all that follows and inserting a period.
SEC. 206. ALTERNATIVES TO DETENTION.

The Secretary of Homeland Security shall implement pilot programs in all States to study the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders.

SEC. 207. REMOVAL OF ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary of Homeland Security shall continue to operate the Institutional Removal Program or develop and implement any other program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary of Homeland Security shall extend the Institutional Removal Program to all States. Each State should—

(A) cooperate with officials of the Federal Institutional Removal Program;
(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey the information collected under subparagraph (B) to officials of the Institutional Removal Program.

(b) Authorization for Detention After Completion of State or Local Prison Sentence.—Law enforcement officers of a State or political subdivision of a State are authorized to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the alien’s State prison sentence in order to effectuate the transfer of the alien to Federal custody when the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) Technology Usage.—Technology such as videoconferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program (IRP) available in remote locations. Mobile access
to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—The Secretary of Homeland Security shall submit a report to Congress on the participation of States in the Institutional Removal Program and in any other program under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the Institutional Removal Program—

(1) $30,000,000 for fiscal year 2006;
(2) $40,000,000 for fiscal year 2007;
(3) $50,000,000 for fiscal year 2008;
(4) $60,000,000 for fiscal year 2009; and
(5) $70,000,000 for fiscal year 2010.

SEC. 208. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) INVESTIGATIVE PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, for each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 200 the number of posi-
tions for investigative personnel within the Department of Homeland Security investigating alien smuggling and immigration status violations above the number of such positions for which funds were made available during the preceding fiscal year.

(2) TRIAL ATTORNEYS.—In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department of Homeland Security who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security for each of fiscal years 2006 through 2010 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) ASSISTANT ATTORNEY GENERAL FOR IMMIGRATION ENFORCEMENT.—

(A) ESTABLISHMENT.—There is established within the Department of Justice the po-
position of Assistant Attorney General for Immigration Enforcement, which shall coordinate and prioritize immigration litigation and enforcement in the Federal courts, including—

(i) removal and deportation;
(ii) employer sanctions; and
(iii) alien smuggling and human trafficking.

(B) CONFORMING AMENDMENT.—Section 506 of title 28, United States Code, is amended by striking “ten” and inserting “11”.

(2) LITIGATION ATTORNEYS.—In each of fiscal years 2006 through 2010, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(3) UNITED STATES ATTORNEYS.—In each of fiscal years 2006 through 2010, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys’ office to litigate immigration cases in the Federal courts.
(4) Immigration Judges.—In each of fiscal years 2006 through 2010, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of immigration judges.

(5) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Justice for each of fiscal years 2006 through 2010 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

SEC. 209. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court may not—

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or
“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court, until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 210. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

“CONSTRUCTION

“Sec. 362. (a) Nothing in this Act or any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal or other investigation or case is pending that is ma-
terial to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

“(b) An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status or benefit on such basis.”.

**SEC. 211. REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.**

(a) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended to read as follows:

“(5) **REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.**—

“(A) **REMOVAL.**—The Secretary of Homeland Security shall remove an alien who is an applicant for admission (other than an admissible alien presenting himself or herself for inspection at a port of entry or an alien paroled into the United States under section
212(d)(5)), after having been, on or after September 30, 1996, excluded, deported, or removed, or having departed voluntarily under an order of exclusion, deportation, or removal.

“(B) JUDICIAL REVIEW.—The removal described in subparagraph (A) shall not require any proceeding before an immigration judge, and shall be under the prior order of exclusion, deportation, or removal, which is not subject to reopening or review. The alien is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of sections 208 or 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect as if enacted on March 1, 2003.

SEC. 212. AUTOMATED ALIEN RECORDS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of Homeland...
Security shall automate the storage of alien records in an electronic format that is interoperable with the alien record keeping systems of the Department of Justice and accessible by other Federal agencies for the purposes of administering the immigration laws of the United States.

(b) EXISTING RECORDS.—The Secretary of Homeland Security shall automate all alien records that were created during the 5-year period ending on the date of enactment of this Act.

(c) OVERSIGHT.—The Chief Information Officer of the Department of Homeland Security shall be responsible for oversight and management of automating the storage of alien records in an electronic format.

(d) OFFICIAL RECORD.—The automated alien record created under this section shall constitute the official record for purposes of the National Archives and Records Administration.

(e) REPORTS.—The Secretary of Homeland Security shall report to the appropriate committees in Congress in 2008 and 2010 on the progress made in automating alien records under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.
Subtitle B—State and Local Law Enforcement

SEC. 221. IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

SEC. 222. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION REGARDING ALIENS.

(a) Violations of Federal Law.—A statute, policy, or practice that prohibits a law enforcement officer of a State, or of a political subdivision of a State, from enforcing Federal immigration laws or from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the law enforcement duties of the officer or from providing information to an official of
the United States Government regarding the immigration
status of an individual who is believed to be illegally
present in the United States is in violation of section
642(a) of the Illegal Immigration Reform and Immigrant
Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section
434 of the Personal Responsibility and Work Opportunity

(b) Provision of Information Regarding Apprehended Illegal Aliens.—

(1) In general.—In compliance with section
642(a) of the Illegal Immigration Reform and Immigrant
Responsibility Act of 1996 (8 U.S.C. 1373(a))
and section 434 of the Personal Responsibility and
Work Opportunity Reconciliation Act of 1996 (8
U.S.C. 1644), States and localities should provide to
the Secretary of Homeland Security the information
listed in subsection (c) on each alien apprehended or
arrested in the jurisdiction of the State or locality
who is believed to be in violation of an immigration
law of the United States. Such information should
be provided regardless of the reason for the apprehen-
sion or arrest of the alien.

(2) Time limitation.—Not later than 10 days
after an alien described in paragraph (1) is appre-
hended, information requested to be provided under
paragraph (1) should be provided in such form and
in such manner as the Secretary of Homeland Secu-
ritv may, by regulation or guideline, require.

(c) INFORMATION REQUIRED.—The information list-
ed in this subsection is as follows:

(1) The name of the alien.

(2) The address or place of residence of the
alien.

(3) A physical description of the alien.

(4) The date, time, and location of the encoun-
ter with the alien and reason for stopping, detaining,
apprehending, or arresting the alien.

(5) If applicable, the driver’s license number
issued to the alien and the State of issuance of such
license.

(6) If applicable, the type of any other identi-
ification document issued to the alien, any designa-
tion number contained on the identification docu-
ment, and the issuing entity for the identification
document.

(7) If applicable, the license plate number,
make, and model of any automobile registered to, or
driven by, the alien.

(8) A photo of the alien, if available or readily
obtainable.
(9) The fingerprints of the alien, if available or readily obtainable, including a full set of 10 rolled fingerprints if available or readily obtainable.

(d) Reimbursement.—The Secretary of Homeland Security shall reimburse States and localities for all reasonable costs, as determined by the Secretary of Homeland Security, incurred by that State or locality as a result of providing information required by this section.

(e) Technical and Conforming Amendments.—

(1) Illegal Immigration Reform and Immigrant Responsibility Act of 1996.—

(A) Technical Amendment.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(i) in subsections (a), (b)(1), and (e) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”; and

(ii) in the heading by striking “IMMIGRATION AND NATURALIZATION SERVICE” and inserting “DEPARTMENT OF HOMELAND SECURITY”.

(B) Conforming Amendment.—Section 1(d) of the Illegal Immigration Reform and Im-
migrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546) is amended by striking the item related to section 642 and inserting the following:

“Sec. 642. Communication between government agencies and the Department of Homeland Security.”.

(2) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) IN GENERAL.—Section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644) is amended—

(i) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”; and

(ii) in the heading by striking “IMMIGRATION AND NATURALIZATION SERVICE” and inserting “DEPARTMENT OF HOMELAND SECURITY”.

(B) CONFORMING AMENDMENT.—Section 2 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) is amended by striking the item related to section 434 and inserting the following:

“Sec. 434. Communication between State and local government agencies and the Department of Homeland Security.”.
(f) Authorization of Appropriations.—There is authorized to be appropriated such sums as are necessary to provide the reimbursements required by subsection (d).

SEC. 223. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) Provision of Information to the National Crime Information Center.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have related to—

(A) any alien against whom a final order of removal has been issued;

(B) any alien who is subject to a voluntary departure agreement that has become invalid under section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c); and

(C) any alien whose visa has been revoked.

(2) Requirement to provide and use information.—The information described in paragraph (1) shall be provided to the National Crime
Information Center, and the Center shall enter the
information into the Immigration Violators File of
the National Crime Information Center database as
long as a name and date of birth are available for
the individual, regardless of whether the alien re-
ceived notice of a final order of removal or the alien
has already been removed.

(3) REMOVAL OF INFORMATION.—Should an in-
dividual be granted cancellation of removal under
section 240A of the Immigration and Nationality
Act (8 U.S.C. 1229b), or granted permission to le-
gally enter the United States pursuant to the Immi-
gration and Nationality Act after a voluntary depar-
ture under section 240B of the Immigration Nation-
ality Act (8 U.S.C. 1229c), information entered into
the National Crime Information Center in accord-
ance with paragraph (1) of this section shall be
promptly removed.

(b) INCLUSION OF INFORMATION IN THE NATIONAL
CRIME INFORMATION CENTER DATABASE.—Section
534(a) of title 28, United States Code, is amended—
(1) in paragraph (3), by striking “and” at the
end;
(2) by redesignating paragraph (4) as para-
graph (5); and
(3) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or the alien has already been removed; and”.

(c) PERMISSION TO DEPART VOLUNTARILY.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”; and

(2) in subsection (a)(2)(A), by striking “120” and inserting “30”.


(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall construct or acquire additional detention facilities in the United States.
(2) Determination of location.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Deputy Assistant Director of the Office of Detention and Removal Operations within the Bureau of Immigration and Customs Enforcement.

(3) Use of installations under base closure laws.—In acquiring detention facilities under this subsection, the Secretary of Homeland Security shall, to the maximum extent practical, request the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 225. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following:
"TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY"

"Sec. 240D. (a) In General.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

"(1) shall—

"(A) not later than 72 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 72 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

"(B) request that the relevant State or local law enforcement agency temporarily detain or transport the illegal alien to a location for transfer to Federal custody; and

"(2) shall designate at least one Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central
facility for that State to transfer custody of criminal
or illegal aliens to the Department of Homeland Se-
curity.

“(b) Reimbursement.—

“(1) In general.—The Department of Home-
land Security shall reimburse a State or a political
subdivision of a State for all reasonable expenses, as
determined by the Secretary of Homeland Security,
incurred by the State or political subdivision in the
detention and transportation of a criminal or illegal
alien as described in subparagraphs (A) and (B) of
subsection (a)(1).

“(2) Cost computation.—Compensation pro-
vided for costs incurred under subparagraphs (A)
and (B) of subsection (a)(1) shall be—

“(A) the product of—

“(i) the average cost of incarceration
of a prisoner in the relevant State, as de-
determined by the chief executive officer of a
State (or, as appropriate, a political sub-
division of the State); multiplied by

“(ii) the number of days that the alien
was in the custody of the State or political
subdivision; added to
“(B) the cost of transporting the criminal or illegal alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point.

“(c) REQUIREMENT FOR APPROPRIATE SECURITY.—
The Secretary of Homeland Security shall ensure that illegal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide an appropriate level of security.

“(d) REQUIREMENT FOR SCHEDULE.—
“(1) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transfer of apprehended illegal aliens from the custody of States and political subdivisions of States to Federal custody.

“(2) AUTHORITY FOR CONTRACTS.—The Secretary of Homeland Security may enter into contracts with appropriate State and local law enforcement and detention officials to implement this subsection.

“(e) ILLEGAL ALIEN DEFINED.—For purposes of this section, the term ‘illegal alien’ means an alien who—
“(1) entered the United States without inspection or at any time or place other than that designated by the Secretary of Homeland Security;

“(2) was admitted as a nonimmigrant and who, at the time the alien was taken into custody by the State or a political subdivision of the State, had failed to—

“(A) maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248; or

“(B) comply with the conditions of any such status;

“(3) was admitted as an immigrant and has subsequently failed to comply with the requirements of that status; or

“(4) failed to depart the United States under a voluntary departure agreement or under a final order of removal.”.

SEC. 226. IMMUNITY.

(a) PERSONAL IMMUNITY.—Notwithstanding any other provision of law, a law enforcement officer of a State, or of a political subdivision of a State, shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the enforcement of any immigration law. The immunity provided in
this subsection shall only apply to an officer of a State, or of a political subdivision of a State, who is acting within the scope of such officer’s official duties.

(b) AGENCY IMMUNITY.—Notwithstanding any other provision of law, a law enforcement agency of a State, or of a political subdivision of a State, shall be immune from any claim for money damages based on Federal, State, or local civil rights law for an incident arising out of the enforcement of any immigration law, except to the extent that the law enforcement officer of that agency, whose action the claim involves, committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law

SEC. 227. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) Transfer of Program.—

(1) In general.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

(2) Contracts.—Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

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(b) Reimbursement for Costs Associated With Processing Criminal Illegal Aliens.—The Secretary of Homeland Security shall reimburse States and units of local government for costs associated with processing illegal aliens through the criminal justice system, including—

(1) indigent defense;
(2) criminal prosecution;
(3) autopsies;
(4) translators and interpreters; and
(5) courts costs.

(c) Authorization of Appropriations.—

(1) Reimbursement for Incarceration Costs.—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended to read as follows:

“(5) There are authorized to be appropriated to carry out this subsection—

“(A) $750,000,000 for fiscal year 2006;
“(B) $850,000,000 for fiscal year 2007;
and
“(C) $950,000,000 for each of the fiscal years 2008 through 2010.”.

(2) Reimbursement for Other Costs.—

There are authorized to be appropriated
SEC. 228. CONSTRUCTION.

Nothing in this subtitle may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary of Homeland Security for immigration enforcement purposes;

(2) arrest such victim or witness for a violation of the immigration laws of the United States; or

(3) enforce the immigration laws of the United States.

SEC. 229. STATE DEFINED.

In this subtitle, the term “State” has the meaning given that term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(36)).
TITLE III—WORKSITE ENFORCEMENT AND EMPLOYMENT VERIFICATION SYSTEM

Subtitle A—Increased Enforcement Resources and Penalties

SEC. 301. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a) during the 5-year period beginning on October 1, 2005.

(b) FRAUD DETECTION.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for Immigration Enforcement Agents dedicated to immigration fraud detection during the 5-year period beginning on October 1, 2005.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated during each of fiscal years 2006 through 2010 such sums as may be necessary to carry out this section.
SEC. 302. PENALTIES FOR UNAUTHORIZED EMPLOYMENT
AND FALSE CLAIMS OF CITIZENSHIP.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (b)(2)—

(A) by striking “The individual” and inserting the following:

“(A) IN GENERAL.—The individual”; and

(B) by adding at the end the following:

“(B) PENALTIES.—Any individual who falsely represents that the individual is a citizen for purposes of obtaining employment shall, for each such violation, be subject to a fine of not more than $5,000 and a term of imprisonment not to exceed 3 years.”;

(2) in subsection (e)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking “$250 and not more than $2,000” and inserting “$500 and not more than $4,000”; 

(ii) in clause (ii), by striking “$2,000 and not more than $5,000” and inserting “$4,000 and not more than $10,000”; and

(iii) in clause (iii), by striking “$3,000 and not more than $10,000” and
inserting “$6,000 and not more than $20,000”; and
(B) in paragraph (5), by striking “$100 and not more than $1,000” and inserting “$200 and not more than $2,000”; and
(3) in subsection (f), by striking “$3,000” and inserting “$6,000”.

SEC. 303. PENALTIES FOR MISUSING SOCIAL SECURITY NUMBERS OR FILING FALSE INFORMATION WITH SOCIAL SECURITY ADMINISTRATION.

(a) Misuse of Social Security Numbers.—

(1) In general.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(A) in paragraph (7), by adding after sub-paragraph (C) the following:

“(D) with intent to deceive, discloses, sells, or transfers his own social security account number, assigned to him by the Commissioner of Social Security (in the exercise of the Commissioner’s authority under section 205(c)(2) to establish and maintain records), to any person; or”;

(B) in paragraph (8), by adding “or” at the end; and
(C) by inserting after paragraph (8) the following:

“(9) without lawful authority, offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number; or

“(10) willfully acts or fails to act so as to cause a violation of section 205(c)(2)(C)(xii); or

“(11) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) in possession of any individual’s social security account number (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C); or

“(12) being a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (x) or (xi) of section 205(c)(2)(C),”.
(2) **Effective dates.**—Paragraphs (7)(D) and (9) of section 208(a) of the Social Security Act, as added by paragraph (1), shall apply with respect to each violation occurring after the date of enactment of this Act. Paragraphs (10), (11), and (12) of section 208(a) of such Act, as added by paragraph (1)(C), shall apply with respect to each violation occurring on or after the effective date of this Act.

(b) **Report on Enforcement Efforts Concerning Employers Filing False Information Returns.**—The Commissioner of Internal Revenue and the Commissioner of Social Security shall submit an annual report to the appropriate congressional committees on efforts taken to identify and enforce penalties against employers that file incorrect information returns.

**Subtitle B—Increased Document Integrity**

**SEC. 311. SOCIAL SECURITY CARDS.**

(a) **Machine-Readable, Tamper-Resistant Cards.**—

   (1) **Issuance.**—

      (A) **Preliminary work.**—Not later than 3 months after the date of enactment of this Act, the Commissioner of Social Security shall
begin work to administer and issue machine-readable, tamper-resistant Social Security cards.

(B) COMPLETION.—Not later than 1 year after the date of enactment of this Act, the Social Security Administration shall only issue machine-readable, tamper-resistant Social Security cards.

(2) AMENDMENT.—Section 205(e)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended—

(A) by inserting “(i)” after “(G)”;

(B) by striking “The social security card shall be” and inserting the following:

“(ii) The social security card shall be machine-readable, tamper-resistant,”.

(3) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(b) MULTIPLE CARDS.—

(1) IN GENERAL.—Section 205(e)(2)(G) of such Act is further amended by adding at the end the following:
“(iii) The Commissioner of Social Security shall not issue a replacement Social Security card to any individual unless the Social Security Administration determines that the purpose for requiring the issuance of the replacement document is legitimate.”.

(2) Effective Date.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

(c) Report on Incorporation of Biometric Identifiers.—Not later than 6 months after the date of enactment of this Act, the Commissioner of Social Security, in cooperation with the Secretary of Homeland Security, shall submit a report to Congress on the viability of biometric authentication through employment authorization documents.

(d) Effective Date.—The amendments made by this subsections (a) and (b) shall take effect 1 year after the date of enactment of this Act.

SEC. 312. BIRTH CERTIFICATES.

(a) Minimum Standards for Federal Recognition.—

(1) In General.—A Federal agency may not accept, for any official purpose, a birth certificate
issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary of Homeland Security shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Health and Human Services, may prescribe by regulation.

(3) MINIMUM DOCUMENT STANDARDS.—

(A) IN GENERAL.—Each birth certificate issued to a person by the State shall be printed on safety paper and shall include the seal of the issuing custodian of record and such other features as the Secretary may determine necessary to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes. The Secretary may not require birth certificates issued by all States to conform to a single design.

(B) ELECTRONIC ISSUANCE AND TRACKING SYSTEM.—The Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the Commissioner of
Social Security, shall develop an electronic system for issuing and tracking birth certificates so that those entities requiring such documents can quickly confirm their validity.

(4) MINIMUM ISSUANCE STANDARDS.—

(A) IN GENERAL.—Before issuing an authenticated copy of a birth certificate of any child, a State shall require the requestor to provide, and shall verify—

(i) the name of the child that will appear on the birth certificate;

(ii) the date and location of the child’s birth;

(iii) the maiden name of the child’s mother; and

(iv) substantial proof of the requestor’s identity.

(B) ISSUANCE TO PERSONS NOT NAMED ON BIRTH CERTIFICATE.—A State shall not issue a birth certificate to a requestor who is not named on the birth certificate unless the requestor presents legal authorization in support of the request.

(C) ISSUANCE TO FAMILY MEMBERS.—Not later than 1 year after the date of enactment of
this Act, the Secretary, in consultation with the Secretary of Health and Human Services and appropriate State representatives, shall establish minimum standards for issuance of a birth certificate to specific family members, their authorized representatives, and others who demonstrate that the certificate is needed for the protection of the requestor’s personal or property rights.

(D) WAIVERS.—A State may waive the requirements set forth in subparagraphs (A) through (C) in exceptional circumstances, such as the incapacitation of the registrant.

(E) APPLICATION BY ELECTRONIC MEANS.—A State shall employ third party verification, or equivalent verification, of the identity of the requestor for applications by electronic means, through the mail, or by phone or fax.

(F) VERIFICATION OF DOCUMENTS.—A State shall verify the documents used to provide proof of identity of the requestor.

(5) EFFECTIVE DATE.—This subsection shall take effect on May 11, 2008.
(b) Applicability of Minimum Standards to Local Governments.—The minimum standards set forth in subsection (a) for birth certificates issued by a State shall apply to birth certificates issued by a local government in the State. It shall be the responsibility of the State to ensure that local governments in the State comply with the minimum standards.

(c) Other Requirements.—When issuing and administering birth certificates, each State shall—

(1) establish and implement minimum building security standards for State and local vital record offices;

(2) restrict public access to birth certificates and information gathered in the issuance process to ensure that access is restricted to entities with which the State has a binding privacy protection agreement;

(3) subject all persons with access to vital records to appropriate security clearance requirements;

(4) establish fraudulent document recognition training programs for appropriate employees engaged in the issuance process;
(5) establish and implement internal operating
system standards for paper and for electronic sys-
tems;

(6) establish a central database that can pro-
vide interoperative data exchange with other States
and with Federal agencies, subject to privacy restric-
tions and confirmation of the authority and identity
of the requestor;

(7) ensure that birth and death records are
matched in a comprehensive and timely manner, and
that all electronic birth records and paper birth cer-
tificates of decedents are marked “deceased”; and

(8) cooperate with the Secretary in the imple-
mentation of electronic verification of vital events
under subsection (f).

(d) Verification of Birth Records Provided in
Social Security Applications.—

(1) IN GENERAL.—Section 205(c)(2)(B)(ii) of
the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii))
is amended—

(A) by inserting “(I)” after “(ii)”; and

(B) by adding at the end the following:

“(II) With respect to an application for a social
security account number for an individual, other
than for purposes of enumeration at birth, the Com-
missioner shall require independent verification of any birth record provided by the applicant in support of the application.”.

(2) **Effective Date.**—The amendment made by subsection (a) shall apply with respect to applications filed more than 180 days after the date of enactment of this Act.

(e) **Electronic Birth and Death Registration Systems.**—In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall—

(1) work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems;

(2) coordinate requirements for such systems to align with a national model;

(3) ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies;

(4) ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common
format of the certified copy, so that those requiring
such documents can quickly confirm their validity;

(5) establish uniform field requirements for
State birth registries;

(6) not later than 6 months after the date of
enactment of this Act, submit a report to Congress
on whether there is a need for Federal laws to ad-
dress penalties for fraud and misuse of vital records
and whether violations are sufficiently enforced;

(7) not later than 1 year after the date of en-
actment of this Act—

(A) establish a process with the Depart-
ment of Defense that will result in the sharing
of data, with the States and the Social Security
Administration, regarding deaths of United
States military personnel and the birth and
death of their dependents; and

(B) establish a process with the Depart-
ment of State to improve registration, notifica-
tion, and the sharing of data with the States
and the Social Security Administration, regard-
ing births and deaths of United States citizens
abroad; and

(8) not later than 3 years after the date of es-
tablishment of databases provided for under this sec-
tion, require States to record and retain electronic records of pertinent identification information collected from requesters who are not the registrants.

(f) Electronic Verification of Vital Events.—

(1) Lead Agency.—The Secretary shall lead the implementation of electronic verification of a person’s birth and death.

(2) Regulations.—In carrying out subsection (a), the Secretary shall issue regulations to establish a means by which authorized Federal and State agency users with a single interface will be able to generate an electronic query to any participating vital records jurisdiction throughout the Nation to verify the contents of a paper birth certificate. Pursuant to the regulations, an electronic response from the participating vital records jurisdiction as to whether there is a birth record in their database that matches the paper birth certificate will be returned to the user, along with an indication if the matching birth record has been flagged “deceased”.

The regulations shall take effect not later than 5 years after the date of enactment of this Act.

(g) Grants to States and Local Governments.—
(1) IN GENERAL.—The Secretary may make grants to a State or a local government to assist the State in conforming to the minimum standards set forth in this chapter.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2006 through 2010 such sums as may be necessary to carry out this chapter.

(h) AUTHORITY.—

(1) PARTICIPATION WITH FEDERAL AGENCIES.—All authority to issue regulations, certify standards, and issue grants under this section shall be carried out by the Secretary, with the concurrence of the Secretary of Health and Human Services and in consultation with State vital statistics offices and appropriate Federal agencies.

(2) EXTENSION OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of subparagraph (b)(1)(A) of this section if, in the discretion of the Secretary, the State provides adequate justification for noncompliance.
(i) REPEAL.—Section 7211 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 301 note) is repealed.

Subtitle C—Mandatory Electronic Employment Verification of All Workers in the United States

SEC. 321. EMPLOYMENT ELIGIBILITY VERIFICATION PROGRAM.

(a) RENAMING OF BASIC PILOT PROGRAM.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended—

(1) in section 401(c)(1), “basic pilot program” and inserting “Employment Eligibility Verification System”; and

(2) in section 403(a), by striking “(a)” and all that follows through “agrees to conform” and insert the following:

“(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—A person or other entity that elects to participate in the Employment Eligibility Verification System shall agree to conform”.

(b) CONFIDENTIALITY.—

(1) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United
States, other than individuals responsible for the enforce-
ment of immigration laws or for the evaluation of the employment verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information contained in the Database.

(2) Protection from Unauthorized Disclosure.—Information in the Database shall be adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Commissioner of Social Security, in consultation with the Secretary of Homeland Security and the Secretary of Labor.

(c) Improvements to Database Integrity.—

(1) In General.—The Commissioner of Social Security shall identify the sources of false, incorrect, or expired Social Security numbers and take steps to eliminate such numbers from the Social Security system

(2) Report.—Not later than 6 months after the date of enactment of this Act, the Commissioner of Social Security shall submit a report to Congress that identifies—
(A) the sources of false, incorrect, or expired Social Security numbers;

(B) the steps taken by the Social Security Administration to identify and eliminate the numbers described in paragraph (1); and

(C) how the Social Security Administration plans to complete the removal the numbers described in paragraph (1) from the Social Security system within 1 year after the date on which the report is submitted.

(d) MANDATORY PARTICIPATION.—

(1) IN GENERAL.—Beginning not later than 12 months after the date of the enactment of this Act, any person or other entity that hires any individual for employment in the United States shall participate in the Employment Eligibility Verification System.

(2) SANCTIONS FOR NONCOMPLIANCE; CONTINUATION OF CURRENT COMPLIANCE AUTHORITY.—The provisions of paragraph (2) of section 402(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall apply with respect to a person or entity required to participate in the Employment Eligibility Verification System in the same manner as such
paragraph applies to a person or entity otherwise re-
quired to participate under such subsection.

(3) Voluntary Participation of Employers

Not Subject to Requirement.—Nothing in this
subsection shall be construed as preventing a person
or other entity that is not subject to the requirement
of paragraph (1) from voluntarily participating in
the Employment Eligibility Verification System.

(e) Electronic Filing.—Any employer partici-
pating in the Employment Eligibility Verification System
may complete and allow for new hires to complete employ-
ment verification documents electronically.

(f) Authorization of Appropriations.—There
are authorized to be appropriated such sums as may be
required to carry out the Employment Eligibility
Verification System throughout the United States and for
every employer.

Subtitle D—Reduction in Employer
Burdens

Sec. 331. Reduction in Documents That Establish


(a) In General.—Section 274A(b)(1) of the Immi-
gration and Nationality Act (8 U.S.C. 1324a(b)(1)) is
amended—
(1) by amending subparagraph (C) to read as follows:

“(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—The only document that may be presented to establish employment authorization under this section is a Social Security card that complies with section 311(a).”.

(2) by amending subparagraph (D) to read as follows:

“(D) DOCUMENTS ESTABLISHING IDENTITY OF AN INDIVIDUAL.—A document described in this subparagraph is—

“(i) an identification document issued by the United States Government that contains a biometric identifier; or

“(ii) a driver’s license or identification document issued by a State that complies with section 202 of the REAL ID Act of 2005 (Division B of Public Law 109–13).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on May 11, 2008.

SEC. 332. GOOD FAITH COMPLIANCE.

An employer that complies with the requirements under subtitle C has established an affirmative defense
that the employer has not violated the employment verification requirements under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a).

**TITLE IV—REQUIREMENTS FOR PARTICIPATING COUNTRIES**

**SEC. 401. REQUIREMENTS FOR PARTICIPATING COUNTRIES.**

(a) **IN GENERAL.**—An alien is not eligible for status as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 501 of this Act, or deferred mandatory departure status under section 218B of the Immigration and Nationality Act, as added by section 601 of this Act, unless the home country of the alien has entered into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) **REQUIREMENTS OF BILATERAL AGREEMENTS.**—Each agreement under subsection (a) shall require the home country to—

(1) accept, within 3 days, the return of nationals who are ordered removed from the United States;

(2) cooperate with the United States Government in—
(A) identifying, tracking, and reducing gang membership, violence, and human trafficking and smuggling; and

(B) controlling illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to or are present in the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) take steps to educate nationals of the home country regarding the program under title V or VI to ensure that such nationals are not exploited; and

(5) provide a minimum level of health coverage to its participants.

(c) RULEMAKING.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Secretary of Health and Human Services shall, by regulation, define the minimum level of health coverage to be provided by participating countries.

(2) RESPONSIBILITY TO OBTAIN COVERAGE.—If the health coverage provided by the home country falls below the minimum level defined pursuant to
paragraph (1), the employer of the alien shall pro-
vide or the alien shall obtain coverage that meets
such minimum level.
(d) HOUSING.—Participating countries shall agree to
evaluate means to provide housing incentives in the alien’s
home country for returning workers.

TITLE V—NONIMMIGRANT
TEMPORARY WORKER PROGRAM

SEC. 501. NONIMMIGRANT TEMPORARY WORKER CAT-
EGORY.

(a) NEW TEMPORARY WORKER CATEGORY.—Section
101(a)(15) of the Immigration and Nationality Act (8
U.S.C. 1101(a)(15)) is amended by adding at the end the
following:

“(W) an alien having a residence in a for-
eign country which the alien has no intention of
abandoning who is coming temporarily to the
United States to perform temporary labor or
service, other than that which would qualify an
alien for status under sections
and who meets the requirements of section
218A; or”.

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(b) Repeal of H–2B Category.—Section 101(a)(15)(H)(ii) is amended by striking “, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession”.

(c) Technical Amendments.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (U)(iii), by striking “or” at the end; and

(2) in subparagraph (V)(ii)(II), by striking the period at the end and inserting a semicolon and “or”.

SEC. 502. TEMPORARY WORKER PROGRAM.

(a) In General.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218 the following new section:

“SEC. 218A. TEMPORARY WORKER PROGRAM.

“(a) In General.—The Secretary of State may grant a temporary visa to a nonimmigrant described in
section 101(a)(15)(W) who demonstrates an intent to per-
form labor or services in the United States (other than
those occupational classifications covered under the provi-
sions of clause (i)(b) or (ii)(a) of section 101(a)(15)(H)
or subparagraph (L), (O), (P), or (R)) of section
101(a)(15)).

“(b) REQUIREMENTS FOR ADMISSION.—In order to
be eligible for nonimmigrant status under section
101(a)(15)(H)(W), an alien shall meet the following re-
quirements:

“(1) ELIGIBILITY TO WORK.—The alien shall
establish that the alien is capable of performing the
labor or services required for an occupation under
section 101(a)(15)(W).

“(2) EVIDENCE OF EMPLOYMENT.—The alien
must establish that he has a job offer from an em-
ployer authorized to hire aliens under the Alien Em-
ployment Management Program.

“(3) FEE.—The alien shall pay a $500 visa
issuance fee in addition to the cost of processing and
adjudicating such application. Nothing in this para-
graph shall be construed to affect consular proce-
dures for charging reciprocal fees.

“(4) MEDICAL EXAMINATION.—The alien shall
undergo a medical examination (including a deter-
mination of immunization status) at the alien’s expense, that conforms to generally accepted standards of medical practice.

“(5) APPLICATION CONTENT AND WAIVER.—

“(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of being admitted as a nonimmigrant under section 101(a)(15)(W).

“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien’s eligibility for admission as a nonimmigrant under section 101(a)(15)(W), the Secretary shall require an alien to provide information concerning the alien’s physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security may require an alien to include
with the application a waiver of rights that ex-
plains to the alien that, in exchange for the dis-
cretionary benefit of admission as a non-
immigrant under section 101(a)(15)(W), the
alien agrees to waive any right—

“(i) to administrative or judicial re-
view or appeal of an immigration officer’s
determination as to the alien’s admissi-
ability; or

“(ii) to contest any removal action,
other than on the basis of an application
for asylum pursuant to the provisions con-
tained in section 208 or 241(b)(3), or
under the Convention Against Torture and
Other Cruel, Inhuman or Degrading Treat-
ment or Punishment, done at New York
December 10, 1984, if such removal action
is initiated after the termination of the
alien’s period of authorized admission as a
nonimmigrant under section
101(a)(15)(W).

“(D) KNOWLEDGE.—The Secretary of
Homeland Security shall require an alien to in-
clude with the application a signed certification
in which the alien certifies that the alien has
read and understood all of the questions and
statements on the application form, and that
the alien certifies under penalty of perjury
under the laws of the United States that the
application, and any evidence submitted with it,
are all true and correct, and that the applicant
authorizes the release of any information con-
tained in the application and any attached evi-
dence for law enforcement purposes.

“(c) GROUNDS OF INADMISSIBILITY.—

“(1) IN GENERAL.—In determining an alien’s
admissibility as a nonimmigrant under section
101(a)(15)(W)—

“(A) paragraphs (5), (6)(A), (7), and
(9)(B) or (C) of section 212(a) may be waived
for conduct that occurred on a date prior to the
effective date of this Act; and

“(B) the Secretary of Homeland Security
may not waive—

“(i) subparagraph (A), (B), (C), (E),
(G), (H), or (I) of section 212(a)(2) (relat-
ing to criminals);

“(ii) section 212(a)(3) (relating to se-
curity and related grounds); or
“(iii) subparagraphs (A), (C) or (D) of section 212(a)(10) (relating to polygamists, child abductors and illegal voters);

“(C) for conduct that occurred prior to the date this Act was introduced in Congress, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

“(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

“(2) WAIVER FEE.—An alien who is granted a waiver under subparagraph (1) shall pay a $500 fee upon approval of the alien’s visa application.

“(3) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(W) shall establish that the alien is not inadmissible under section 212(a).
“(d) **BACKGROUND CHECKS AND INTERVIEW.**—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking admission under section 101(a)(15)(W) until all appropriate background checks have been completed. The Secretary of State shall ensure that an employee of the Department of State conducts a personal interview of an applicant for a visa under section 101(a)(15)(W).

“(e) **INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.**—An alien admitted under section 101(a)(15)(W) is ineligible to change status under section 248.

“(f) **DURATION.**—

“(1) **GENERAL.**—The period of authorized admission as a nonimmigrant under 101(a)(15)(W) shall be 2 years, and may not be extended. An alien is ineligible to reenter as an alien under 101(a)(15)(W) until the alien has resided continuously in the alien’s home country for a period of 1 year. The total period of admission as a nonimmigrant under section 101(a)(15)(W) may not exceed 6 years.

“(2) **SEASONAL WORKERS.**—An alien who spends less than 6 months a year as a nonimmigrant
described in section 101(a)(15)(W) is not subject to
the time limitations under subparagraph (1).

“(3) COMMUTERS.—An alien who resides out-
side the United States, but who commutes to the
United States to work as a nonimmigrant described
in section 101(a)(15)(W), is not subject to the time
limitations under paragraph (1).

“(4) DEFERRED MANDATORY DEPARTURE.—An
alien granted Deferred Mandatory Departure status,
who remains in the United States under such status
for—

“(A) a period of 2 years, may not be
granted status as a nonimmigrant under section
101(a)(15)(W) for more than a total of 5 years;

“(B) a period of 3 years, may not be
granted status as a nonimmigrant under section
101(a)(15)(W) for more than a total of 4 years;

“(C) a period of 4 years, may not be
granted status as a nonimmigrant under section
101(a)(15)(W) for more than a total of 3 years;

or

“(D) a period of 5 years, may not be
granted status as a nonimmigrant under section
101(a)(15)(W) for more than a total of 2 years.
“(g) INTENT TO RETURN HOME.—In addition to other requirements in this section, an alien is not eligible for nonimmigrant status under section 101(a)(15)(W) unless the alien—

“(1) maintains a residence in a foreign country which the alien has no intention of abandoning; and

“(2) is present in such foreign country for at least 7 consecutive days during each year that the alien is a temporary worker.

“(h) BIOMETRIC DOCUMENTATION.—Evidence of status under section 101(a)(15)(W) shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity.

“(i) PENALTY FOR FAILURE TO DEPART.—An alien who fails to depart the United States prior to 10 days after the date that the alien’s authorized period of admission as a temporary worker ends is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law, with the exception of see-
tion 208 or 241(b)(3) or the Convention Against Torture
and Other Cruel, Inhuman or Degrading Treatment or
Punishment, done at New York December 10, 1984, in
the case of an alien who indicates either an intention to
apply for asylum under section 208 or a fear of persecu-
tion or torture.

“(j) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—
An alien who, after the effective date of enactment of the
Comprehensive Enforcement and Immigration Reform Act
of 2005, enters the United States without inspection, or
violates a term or condition of admission into the United
States as a nonimmigrant, including overstaying the pe-
riod of authorized admission, shall be ineligible for non-
immigrant status under section 101(a)(15)(W) or De-
ferred Mandatory Departure status under section 218B
for a period of 10 years.

“(k) ESTABLISHMENT OF TEMPORARY WORKER
TASK FORCE.—

“(1) IN GENERAL.—There is established a task
force to be known as the Temporary Worker Task
Force (referred to in this section as the ‘Task
Force’).

“(2) PURPOSES.—The purposes of the Task
Force are—
“(A) to study the impact of the admission
of aliens under section 101(a)(15)(W) on the
wages, working conditions, and employment of
United States workers; and

“(B) to make recommendations to the Sec-
retary of Labor regarding the need for an an-
nual numerical limitation on the number of
aliens that may be admitted in any fiscal year
under section 101(a)(15)(W).

“(3) MEMBERSHIP.—The Task Force shall be
composed of 10 members, of whom—

“(A) 1 shall be appointed by the President
and shall serve as chairman of the Task Force;

“(B) 1 shall be appointed by the leader of
the minority party in the Senate, in consulta-
tion with the leader of the minority party in the
House of Representatives, and shall serve as
vice chairman of the Task Force;

“(C) 2 shall be appointed by the majority
leader of the Senate;

“(D) 2 shall be appointed by the minority
leader of the Senate;

“(E) 2 shall be appointed by the Speaker
of the House of Representatives; and
“(F) 2 shall be appointed by the minority leader of the House of Representatives.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—Members of the Task Force shall be—

“(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

“(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

“(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

“(C) NONGOVERNMENTAL APPOINTEES.—

An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

“(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of the
Comprehensive Enforcement and Immigration Reform Act of 2005.

“(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

“(7) MEETINGS.—

“(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

“(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

“(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

“(9) REPORT.—Not later than 18 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

“(A) findings with respect to the duties of the Task Force;
“(B) recommendations for imposing a numerical limit.

“(10) Determination.—Not later than 6 months after the submission of the report, the Secretary of Labor may impose a numerical limitation on the number of aliens that may be admitted under section 101(a)(15)(W). Any numerical limit shall not become effective until 6 months after the Secretary of Labor submits a report to Congress regarding the imposition of a numerical limit.

“(1) Family Members.—

“(1) Family Members of W Nonimmigrants.—

“(A) In general.—The spouse or child of an alien admitted as a nonimmigrant under section 101(a)(15)(W) may be admitted to the United States—

“(i) as a nonimmigrant under section 101(a)(15)(B) for a period of not more than 30 days, which may not be extended unless the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that exceptional circumstances exist; or
“(ii) under any other provision of this Act, if such family member is otherwise eligible for such admission.

“(B) Application fee.—

“(i) In general.—The spouse or child of an alien admitted as a non-immigrant under section 101(a)(15)(W) who is seeking to be admitted as a non-immigrant under section 101(a)(15)(B) shall submit, in addition to any other fee authorized by law, an additional fee of $100.

“(ii) Use of fee.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(m) Travel Outside the United States.—

“(1) In general.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(W)—

“(A) may travel outside of the United States; and
“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(2) Effect on Period of Authorized Admission.—Time spent outside the United States under paragraph (1) shall not extend the period of authorized admission in the United States.

“(n) Employment.—

“(1) Portability.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens admitted under section 218C.

“(2) Continuous Employment.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien departs the United States and reenters as a nonimmigrant under section 101(a)(15)(W). The Secretary of Homeland Security may, in its sole and unreviewable discretion, reauthorize an alien for employment, without requiring the alien’s departure from the United States.

“(o) Enumeration of Social Security Number.—The Secretary of Homeland Security, in coordination with the Commissioner of Social Security, shall implement a system to allow for the enumeration of a Social

"(p) Denial of discretionary relief.—The determination of whether an alien is eligible for a grant of nonimmigrant status under section 101(a)(15)(W) is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(1) any judgment regarding the granting of relief under this section; or

"(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

"(q) Judicial review.—

"(1) Limitations on relief.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

"(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

"(i) an order or notice denying an alien a grant of nonimmigrant status
under section 101(a)(15)(W) or any other
benefit arising from such status; or

“(ii) an order of removal, exclusion, or
deportation entered against an alien if
such order is entered after the termination
of the alien’s period of authorized admis-
sion as a nonimmigrant under section
101(a)(15)(W); or

“(B) certify a class under Rule 23 of the
Federal Rules of Civil Procedure in any action
for which judicial review is authorized under a
subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit
not otherwise waived or limited pursuant this
section is available in an action instituted in the
United States District Court for the District of
Columbia, but shall be limited to determina-
tions of—

“(i) whether such section, or any reg-
ulation issued to implement such section,
violates the Constitution of the United
States; or

“(ii) whether such a regulation, or a
written policy directive, written policy
guideline, or written procedure issued by
or under the authority the Secretary of
Homeland Security to implement such sec-
tion, is not consistent with applicable pro-
visions of this section or is otherwise in
violation of law.”.

(b) Prohibition on Change in Nonimmigrant
Classification.—Section 248(1) of the Immigration and
Nationality Act (8 U.S.C. 1258(1)) is amended by striking
“or (S)” and inserting “(S), or (W)”.

SEC. 503. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this
title, shall be construed to create any substantive or proce-
dural right or benefit that is legally enforceable by any
party against the United States or its agencies or officers
or any other person.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated
$500,000,000 for facilities, personnel (including consular
officers), training, technology and processing necessary to
carry out the amendments made by this title.
TITLE VI—MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS

SEC. 601. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) In General.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218A, as added by section 502, the following new section:

"SEC. 218B. MANDATORY DEPARTURE AND REENTRY.

"(a) In General.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

"(b) Requirements.—

"(1) Presence.—An alien must establish that the alien was physically present in the United States 1 year prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005 in Congress and has been continuously in the United States since such date, and was not legally present in the United States under any classification set forth in section 101(a)(15) on that date."
“(2) Employment.—An alien must establish that the alien was employed in the United States prior to the date of the introduction of the Comprehensive Enforcement and Immigration Reform Act of 2005, and has been employed in the United States since that date.

“(3) Admissibility.—

“(A) In general.—The alien must establish that he—

“(i) is admissible to the United States, except as provided as in (B); and

“(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(B) Grounds not applicable.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) Waiver.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure
family unity, or when it is otherwise in the pub-
lic interest.

“(4) INELIGIBLE.—An alien is ineligible for De-
ferred Mandatory Departure status if the alien—

“(A) is subject to a final order or removal
under section 240;

“(B) failed to depart the United States
during the period of a voluntary departure
order under section 240B;

“(C) has been issued a Notice to Appear
under section 239, unless the sole acts of con-
duct alleged to be in violation of the law are
that the alien is removable under section
237(a)(1)(C) or is inadmissible under section
212(a)(6)(A);

“(D) is a resident of a country for which
the Secretary of State has made a determina-
tion that the government of such country has
repeatedly provided support for acts of inter-
national terrorism under section 6(j) of the Ex-
port Administration Act of 1979 (50 U.S.C.
App. 2405(j)) or under section 620A of the
Foreign Assistance Act of 1961 (22 U.S.C.
2371); or
“(E) fails to comply with any request for information by the Secretary of Homeland Secu-

(5) MEDICAL EXAMINATION.—The alien may be required, at the alien’s expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of med-

(6) TERMINATION.—The Secretary of Home-

land Security may terminate an alien’s Deferred Mandatory Departure status—

(A) if the Secretary of Homeland Secu-

rity determines that the alien was not in fact el-

igible for such status; or

(B) if the alien commits an act that makes the alien removable from the United States.

(7) APPLICATION CONTENT AND WAIVER.—

(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an applica-

tion form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.
“(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien’s eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien’s physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

“(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer’s determination as to the alien’s eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or
under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

“(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory
Departure status and shall utilize biometric authentication at time of document issuance.

“(2) Initial receipt of applications.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(3) Application.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) Completion of processing.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of enactment of the Comprehensive Enforcement and Immigration Reform Act of 2005.

“(d) Security and law enforcement background checks.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by
the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(1) an acknowledgment made in writing and under oath that the alien—

“(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(B) understands the terms of the terms of Deferred Mandatory Departure;

“(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(3) any false or fraudulent documents in the alien’s possession.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary’s sole and unreviewable discretion, grant an alien Deferred
Mandatory Departure status for a period not to exceed 5 years.

“(2) Registration at time of departure.—An alien granted Deferred Mandatory Departure must depart prior to the expiration of the period of Deferred Mandatory Departure status. The alien must register with the Secretary of Homeland Security at time of departure and surrender any evidence of Deferred Mandatory Departure status at time of departure.

“(3) Return in legal status.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs prior to the expiration of such status shall not be subject to section 212(a)(9)(B) and, if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

“(4) Failure to depart.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading
Treatment or Punishment, done at New York De-
cember 10, 1984, in the case of an alien who indi-
cates either an intention to apply for asylum under
section 208 or a fear of persecution or torture.

“(5) PENALTIES FOR DELAYED DEPARTURE.—
An alien who fails to depart immediately shall be
subject to the following fees:

“(A) No fine if the alien departs within the
first year after the grant of Deferred Manda-
tory Departure.

“(B) $2,000 if the alien does not depart
within the second year after the grant of De-
ferred Mandatory Departure.

“(C) $3,000 if the alien does not depart
within the third year following the grant of De-
ferred Mandatory Departure.

“(D) $4,000 if the alien does not depart
within the fourth year following the grant of De-
ferred Mandatory Departure.

“(E) $5,000 if the alien does not depart
during the fifth year following the grant of De-
ferred Mandatory Departure.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPAR-
TURE STATUS.—Evidence of Deferred Mandatory Depart-
ture status shall be machine-readable, tamper-resistant,
and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

“(i) may travel outside of the United States and may be readmitted if the period
of Deferred Mandatory Departure status has not expired; and

“(ii) must establish at the time of application for admission that the alien is admissible under section 212.

“(C) Effect on period of authorized admission.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) Benefits.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

“(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

“(i) Prohibition on change of status or adjustment of status.—An alien granted Deferred Mandatory Departure status is prohibited from applying to
change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

“(j) Application Fee.—

“(1) In general.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

“(2) Use of fee.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) Family Members.—

“(1) Family members.—

“(A) In general.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

“(B) Application fee.—

“(i) In general.—The spouse or child of an alien seeking Deferred Mandatory Departure shall submit, in addition to any other fee authorized by law, an additional fee of $500.
“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(l) EMPLOYMENT.—

“(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens under section 218C.

“(2) CONTINUOUS EMPLOYMENT.—An alien must be employed while in the United States. An alien who fails to be employed for 30 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary’s sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien’s departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Secu-
security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.
“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Not-
withstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or
“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(b) CONFORMING AMENDMENT.—Amend section 237(a)(2)(A)(i)(II) of the Immigration and Nationality
Act (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218B),”.

SEC. 602. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this title.

TITLE VII—ALIEN EMPLOYMENT MANAGEMENT SYSTEM

SEC. 701. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 601, the following new section:

“SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

“(a) ESTABLISHMENT.—

“(1) PURPOSE.—The Secretary of Homeland Security, in consultation with the Secretary of
Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage and track the employment of aliens described in section 218A or 218B.

“(2) Deadline.—The program under subsection (a) shall commence prior to any alien being admitted under section 101(a)(15)(W) or granted Deferred Mandatory Departure under section 218B.

“(b) Requirements.—The program shall—

“(1) enable employers who seek to hire aliens described in section 218A or 218B to apply for authorization to employ such aliens;

“(2) be interoperable with Social Security databases and must provide a means of immediately verifying the identity and employment authorization of an alien described in section 218A or 218B, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;

“(3) require an employer to utilize readers or scanners at the location of employment or at a Federal facility to transmit the biometric and biographic information contained in the alien’s evidence of status to the Secretary of Homeland Security, for purposes of complying with title III of the Comprehensive Enforcement and Immigration Reform Act of 2005;
sive Enforcement and Immigration Reform Act of 2005; and

“(4) collect sufficient information from employers to enable the Secretary of Homeland Security to identify—

“(A) whether an alien described in section 218A or 218B is employed;

“(B) any employer that has hired an alien described in section 218A or 218B;

“(C) the number of aliens described in section 218A or 218B that an employer is authorized to hire and is currently employing; and

“(D) the occupation, industry and length of time that an alien described in section 218A or 218B has been employed in the United States.

“(c) AUTHORIZATION TO HIRE ALIENS DESCRIBED IN SECTION 218A OR 218B.—

“(1) APPLICATION.—An employer must apply, through the program described in subsection (a) of this section, to obtain authorization to hire aliens described in section 218A or 218B.

“(2) PENALTIES.—An employer who employs an alien described in section 218A or 218B without authorization is subject to the same penalties and
provisions as an employer who violates section 274(a)(1)(A) or (a)(2). An employer shall be subject to penalties prescribed by the Secretary of Homeland Security by regulation, which may include monetary penalties and debarment from eligibility to hire aliens described in section 218A or 218B.

“(3) Eligibility.—An employer must establish that it is a legitimate company and must attest that it will comply with the terms of the program established under subsection (a).

“(4) Number of Aliens Authorized.—An employer may request authorization to multiple aliens described in section 218A or 218B.

“(5) Electronic Form.—The program established under subsection (a) shall permit employers to submit applications under this subsection in an electronic form.

“(d) Notification Upon Termination of Employment.—An employer, through the program established under subsection (a), must notify the Secretary of Homeland Security not more than 3 business days after the date of the termination of the alien’s employment. The employer is not authorized to fill the position with another alien described in section 218A or 218B until the employer
notifies the Secretary of Homeland Security that the alien is no longer employed by that employer.

“(e) PROTECTION OF UNITED STATES WORKERS.—

An employer may not be authorized to hire an alien described in section 218A or 218B until the employer submits an attestation stating the following:

“(1) The employer has posted the position in a national, electronic job registry maintained by the Secretary of Labor, for not less than 30 days.

“(2) The employer has offered the position to any eligible United States worker who applies and is equally or better qualified for the job for which a temporary worker is sought and who will be available at the time and place of need. An employer shall maintain records for not less than 1 year demonstrating that why United States workers who applied were not hired.

“(3) The employer shall comply with the terms of the program established under subsection (a), including the terms of any temporary worker monitoring program established by the Secretary.

“(4) The employer shall not hire more aliens than the number authorized by the Secretary of Homeland Security has authorized it to hire.
“(5) The worker shall be paid at least the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage. All wages will be paid in a timely manner and all payroll records will be maintained accurately.

“(6) The employment of a temporary worker shall not adversely affect the working conditions of other similarly employed United States workers.

“(f) APPROVAL.—After determining that there are no United States workers who are qualified and willing to obtain the employment for which the employer is seeking temporary workers, the Secretary of Homeland Security may approve the application submitted by the employer under this paragraph for the number of temporary workers that the Secretary determines are required by the employer. Such approval shall be valid for a 2-year period.”.

SEC. 702. LABOR INVESTIGATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of Labor shall conduct audits, including random audits, of employers who employ aliens described under section 218A or 218B of the Immigration and Nationality Act, as added by section 502 and 601, respectively.
(b) Penalties.—The Secretary of Homeland Security shall establish penalties, which may include debarment from eligibility for hire also described under section 218A, as added by section 502 of this Act, 218B, as added by section 601 of this Act, for employers who fail to comply with section 218C of the Immigration and Nationality Act as added by section 701 of this Act, and shall establish protections for aliens who report employers who fail to comply with such section.

TITLE VIII—PROTECTION AGAINST IMMIGRATION FRAUD

SEC. 801. GRANTS TO SUPPORT PUBLIC EDUCATION AND TRAINING.

(a) General Program Purpose.—The purpose of this title is to assist qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act and the amendments made by this Act.

(b) Purposes for Which Grants May Be Used.—The grants under this part shall be used to fund public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by non-profit community organizations in providing services related to this Act, and to educate, train and support non-profit organizations, immi-
grant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation. In particular, funding shall be provided to non-profit organizations for the purposes of—

(1) educating immigrant communities and other interested entities on the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary of Homeland Security, and on the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(2) educating interested entities on the requirements for obtaining non-profit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary of Homeland Security, and providing non-profit agencies with training and technical assistance on the recognition and accreditation process; and

(3) educating non-profit community organizations, immigrant communities and other interested entities on the process for obtaining benefits under this Act or an amendment made by this Act, and the availability of authorized legal representation for
low-income persons who may qualify for benefits
under this Act of an amendment made by this Act.

(c) Authorization of Appropriations.—There
are authorized to be appropriated to the Office of Justice
Programs at the United States Department of Justice to
carry out this section—

(1) $40,000,000 for fiscal year 2006;
(2) $40,000,000 for fiscal year 2007; and
(3) $40,000,000 for fiscal year 2008.

(d) In General.—The Office of Justice Programs
shall ensure, to the extent possible, that the non-profit
community organizations funded under this Section shall
serve geographically diverse locations and ethnically di-
verse populations who may qualify for benefits under the
Act.

TITLE IX—CIRCULAR MIGRATION

SEC. 901. INVESTMENT ACCOUNTS.

(a) In General.—Section 201 of the Social Security
Act (42 U.S.C. 401) is amended by adding at the end the
following:

“(o)(1) Notwithstanding any other provision of this
section, the Secretary of the Treasury shall transfer at
least quarterly from the Federal Old-Age and Survivors
Insurance Trust Fund and the Federal Disability Insur-
ance Trust Fund 100 percent of the temporary worker
taxes to the Temporary Worker Investment Fund for de-
posit in a temporary worker investment account for each
temporary worker as specified in section 253.

“(2) For purposes of this subsection—

“(A) the term ‘temporary worker taxes’ means
that portion of the amounts appropriated to the
Federal Old-Age and Survivors Insurance Trust
Fund and the Federal Disability Insurance Trust
Fund under this section and properly attributable to
the wages (as defined in section 3121 of the Internal
Revenue Code of 1986) and self-employment income
(as defined in section 1402 of such Code) of tem-
porary workers as determined by the Commissioner
of Social Security; and

“(B) the term ‘temporary worker’ means an
alien who is admitted to the United States as a non-
immigrant under section 101(a)(15)(W) of the Im-
migration and Nationality Act.”.

(b) Temporary Worker Investment Ac-
counts.—Title II of the Social Security Act (42 U.S.C.
401 et seq.) is amended—

(1) by inserting before section 201 the “PART
A—SOCIAL SECURITY”; and

(2) by adding at the end the following:
"PART II—TEMPORARY WORKER INVESTMENT ACCOUNTS"

"DEFINITIONS"

"Sec. 251. For purposes of this part:

"(1) COVERED EMPLOYER.—The term ‘covered employer’ means, for any calendar year, any person on whom an excise tax is imposed under section 3111 of the Internal Revenue Code of 1986 with respect to having an individual in the person’s employ to whom wages are paid by such person during such calendar year.

"(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

"(3) TEMPORARY WORKER.—The term ‘temporary worker’ an alien who is admitted to the United States as a nonimmigrant under section 101(a)(15)(W) of the Immigration and Nationality Act.

"(4) TEMPORARY WORKER INVESTMENT ACCOUNT.—The term ‘temporary worker investment account’ means an account for a temporary worker which is administered by the Secretary through the Temporary Worker Investment Fund.

"(5) TEMPORARY WORKER INVESTMENT FUND.—The term ‘Temporary Worker Investment
"TEMPORARY WORKER INVESTMENT ACCOUNTS"

"Sec. 252. (a) In General.—A temporary worker investment account shall be established by the Secretary in the Temporary Worker Investment Fund for each individual not later than 10 business days after the covered employer of such individual submits a W–4 form (or any successor form) identifying such individual as a temporary worker.

"(b) Time Account Takes Effect.—A temporary worker investment account established under subsection (a) shall take effect with respect to the first pay period beginning more than 14 days after the date of such establishment.

"(c) Temporary Worker’s Property Right in Temporary Worker Investment Account.—The temporary worker investment account established for a temporary worker is the sole property of the worker.

"TEMPORARY WORKER INVESTMENT FUND"

"Sec. 253. (a) In General.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Temporary Worker Investment Fund’ to be administered by the Secretary. Such Fund shall consist of the assets transferred under section 201(o) to each temporary worker investment account established
under section 252 and the income earned under subsection 
(e) and credited to such account.

“(b) Notice of Contributions.—The full amount 
of a temporary worker’s investment account transfers 
shall be shown on such worker’s W–2 tax statement, as 
provided in section 6051(a)(14) of the Internal Revenue 

“(c) Investment Earnings Report.—

“(1) In general.—At least annually, the Tem-
porary Worker Investment Fund shall provide to 
each temporary worker with a temporary worker in-
vestment account managed by the Fund a temporary 
worker investment status report. Such report may be 
transmitted electronically upon the agreement of the 
temporary worker under the terms and conditions 
established by the Secretary.

“(2) Contents of report.—The temporary 
worker investment status report, with respect to a 
temporary worker investment account, shall provide 
the following information:

“(A) The total amounts transferred under 
section 201(o) in the last quarter, the last year, 
and since the account was established.
“(B) The amount and rate of income earned under subsection (e) for each period described in subparagraph (A).

“(d) Maximum Administrative Fee.—The Temporary Worker Investment Fund shall charge each temporary worker in the Fund a single, uniform annual administrative fee not to exceed 0.3 percent of the value of the assets invested in the worker’s account.

“(e) Investment Duties of Secretary.—The Secretary shall establish policies for the investment and management of temporary worker investment accounts, including policies that shall provide for prudent Federal Government investment instruments suitable for accumulating funds.

“Temporary Worker Investment Account Distributions

“Sec. 254. (a) Date of Distribution.—Except as provided in subsections (b) and (e), a distribution of the balance in a temporary worker investment account may only be made on or after the date such worker departs the United States and abandons such worker’s non-immigrant status under section 101(a)(15)(W) of the Immigration and Nationality Act and returns to the worker’s home country.

“(b) Distribution in the Event of Death.—If the temporary worker dies before the date determined
under subsection (a), the balance in the worker’s account shall be distributed to the worker’s estate under rules established by the Secretary.”.

(c) Temporary Worker Investment Account Transfers Shown on W–2S.—

(1) In general.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(A) by striking “and” at the end of paragraph (12);

(B) by striking the period at the end of paragraph (13) and inserting “; and”; and

(C) by inserting after paragraph (13) the following:

“(14) in the case of a temporary worker (as defined in section 251(1) of the Social Security Act), of the amount shown pursuant to paragraph (6), the total amount transferred to such worker’s temporary worker investment account under section 201(o) of such Act.”.

(2) Conforming amendments.—Section 6051 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)(6), by inserting “and paid as tax under section 3111” after “section 3101”; and
(B) in subsection (c), by inserting “and
paid as tax under section 3111” after “section
3101”.

TITLE X—BACKLOG REDUCTION

SEC. 1001. EMPLOYMENT BASED IMMIGRANTS.

(a) Employment-Based Immigrant Limit.—Sec-
tion 201(d) of the Immigration and Nationality Act (8
U.S.C. 1151(d)) is amended to read as follows:

“(d) Worldwide Level of Employment-Based
Immigrants.—The worldwide level of employment-based
immigrants under this subsection for a fiscal year is equal
to the sum of—

“(1) 140,000;

“(2) the difference between the maximum num-
ber of visas authorized to be issued under this sub-
section during the previous fiscal year and the num-
ber of visas issued during the previous fiscal year;

“(3) the difference between—

“(A) the maximum number of visas au-
thorized to be issued under this subsection dur-
ing fiscal years 2001 through 2005 and the
number of visa numbers issued under this sub-
section during those years; and
“(B) the number of visas described in sub-
paragraph (A) that were issued after fiscal year
2005; and
“(4) the number of visas previously made avail-
able under section 203(e).”.

(b) DIVERSITY VISA TERMINATION.—The allocation
of immigrant visas to aliens under section 203(e) of the
Immigration and Nationality Act (8 U.S.C. 1153(e)), and
the admission of such aliens to the United States as immi-
grants, is terminated. This provision shall become effective
on October 1st of the fiscal year following enactment of
this Act.

(c) IMMIGRATION TASK FORCE.—

(1) IN GENERAL.—There is established a task
force to be known as the Immigration Task Force
(referred to in this section as the “Task Force”).

(2) PURPOSES.—The purposes of the Task
Force are—

(A) to study the impact of the delay be-
tween the date on which an application for im-
migration is submitted and the date on which
a determination on such application is made;

(B) to study the impact of immigration of
workers to the United States on family unity;

and
(C) to provide to Congress any recommen-
dations of the Task Force regarding in-
creasing the number immigrant visas issued by
the United States for family members and on
the basis of employment.

(3) MEMBERSHIP.—The Task Force shall be
composed of 10 members, of whom—

(A) 1 shall be appointed by the President
and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of
the minority party in the Senate, in consulta-
tion with the leader of the minority party in the
House of Representatives, and shall serve as
vice chairman of the Task Force;

(C) 2 shall be appointed by the majority
leader of the Senate;

(D) 2 shall be appointed by the minority
leader of the Senate;

(E) 2 shall be appointed by the Speaker of
the House of Representatives; and

(F) 2 shall be appointed by the minority
leader of the House of Representatives.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task
Force shall be—
(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—
(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(9) REPORT.—Not later than 18 months after the date of enactment of this Act, the Task Force shall submit to Congress, the Secretary of Labor, and the Secretary of Homeland Security a report that contains—

(A) findings with respect to the duties of the Task Force; and

(B) recommendations for modifying the numerical limits on the number immigrant visas issued by the United States for family members of individuals in the United States and on the basis of employment.

SEC. 1002. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—
(A) by striking “(4), and (5)” and inserting “and (4)”;

(B) by striking “7 percent (in the case of a single foreign state) or 2 percent” and inserting “10 percent (in the case of a single foreign state) or 5 percent”; and

(2) by striking paragraph (5).

SEC. 1003. ALLOCATION OF IMMIGRANT VISAS.

(a) Preference Allocation for Employment-Based Immigrants.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “10 percent”; and

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “10 percent”; and

(3) in paragraph (3)(A)—

(A) by striking “28.6 percent” and inserting “35 percent”; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking “7.1 percent” and inserting “4 percent”;

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(7) by inserting after paragraph (4), as redesignated, the following:

“(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 36 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States”; and

(8) by striking paragraph (6).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(M)) is amended by striking “subject to the numerical limitations of section 203(b)(4),”.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS’ VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1153 note) is repealed.
TITLE XI—TEMPORARY
AGRICULTURAL WORKERS

SEC. 1101. SENSE OF THE SENATE ON TEMPORARY AGRICULTURAL WORKERS.

It is the sense of the Senate that consideration of any comprehensive immigration reform during the 109th Congress will include agricultural workers.